

441—93.132(239B) Participation issues for FIA-responsible persons. PROMISE JOBS participants who do not carry out the responsibilities of the FIA are considered to have chosen the limited benefit plan, as described at 441—subrule 41.24(8).

The participation issues in this rule are those which are important for effective functioning in the workplace or training facility and to the completion of the FIA.

When PROMISE JOBS staff send a written reminder, request, or other notification as specified below in the descriptions of the participant issues that apply to this rule, the notification shall identify the participation issue, clarify expectations, attempt to identify barriers to participation, explain the consequences of the LBP, and offer supervisory intervention.

Participants who, for reasons other than those described at rule 441—93.133(239B), do not resolve these issues shall be considered to have chosen the limited benefit plan, unless participant circumstances are revealed which indicate that a barrier to participation exists which should be addressed in the FIA.

Those who may be considered to have chosen the limited benefit plan are:

1. Participants who are more than 15 minutes late for a third time within three months of the first lateness, after receiving one written reminder at the time the second lateness occurred.

2. Participants who do not, for a second time after receiving one written reminder at the first occurrence, appear for scheduled appointments, participate in appraisal activities, complete required forms, or take required vocational or aptitude tests, or are absent from activities designated in the FIA or other self-sufficiency plan.

3. Participants who do not, for a second time after receiving one written reminder at the first occurrence, notify work experience sponsors or PROMISE JOBS staff of absence within one hour of the time at which they are due to appear.

4. Participants who exhibit disruptive behavior for a second time after receiving one written reminder at the first occurrence. Disruptive behavior means the participant hinders the performance of other participants or staff, refuses to follow instructions, uses abusive language, or is under the influence of alcohol or drugs.

5. Participants who fail to secure physical examinations after one written request to do so.

6. Participants whose performance continues to be unsatisfactory after they have been notified by program or provider agency staff of unacceptable performance and what is necessary to make performance acceptable. Notification of unsatisfactory performance may be oral initially, but shall be documented to the participant in writing.

7. Participants who make physical threats to other participants or staff. A physical threat is defined as having a dangerous weapon in one's possession and either threatening with or using the weapon or committing assault.

8. Participants who do not accept work experience assignments when the work experience option is part of the FIA.

9. Participants who do not, for a second time after receiving a written reminder at the first occurrence, appear for work experience interviews.

10. Participants who do not follow up on job referrals, refuse offers of employment or terminate employment, or who are discharged from employment due to misconduct. For the purposes of these rules, "misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of the worker's contract of employment. To be considered "misconduct," the employee's conduct must demonstrate deliberate violation or disregard of standards of behavior that the employer has the right to expect of employees. Mere inefficiency, unsatisfactory conduct, failure to perform well due to inability or incapacity, ordinary negligence in isolated instances, or good-faith errors in judgement or discretion are not to be deemed misconduct for the purpose of these rules.

11. Participants who do not secure adequate child care when registered or licensed facilities are available.

12. Participants for whom child care, transportation, or educational services become unavailable as a result of failure to use PROMISE JOBS funds or child care assistance funds to pay the provider or failure to provide required receipts.

13. FIA-responsible persons who are required to participate in high school completion activities and who fail to provide grade transcripts or reports.

When a situation as described in numbered paragraph “7,” “8,” “10,” “11,” “12,” or “13” above occurs, participation is an issue at the first occurrence unless the participant is experiencing problems or barriers to participation as described at rules 441—93.133(239B) and 93.134(239B). Before issuing a notice of decision to impose the limited benefit plan, PROMISE JOBS staff shall send one letter that includes the elements described earlier in this rule to attempt to resolve the issue. When a situation as described in numbered paragraph “7” above occurs, the letter shall give the participant an opportunity to provide written documentation from a doctor, licensed psychologist, probation officer, or law enforcement official to resolve the participation issue. The documentation must verify that the act was caused by either a temporary problem or a serious problem or barrier that needs to be included in the FIA. The documentation must also provide reasonable assurance that the threatening behavior will not occur again.